REMARKS

I. INTRODUCTION

Claims 30-49 remain pending. Claims 37 and 46 have been amended. No new matter has been added. In view of the above amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. THE 35 U.S.C. § 102 REJECTIONS SHOULD BE WITHDRAWN

The Examiner has rejected claims 30-49 under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,055,573 to Gardenswartz et al. ("the Gardenswartz patent"). (See 1/17/2006 Office Action, p. 2).

The Gardenswartz patent describes a system for delivering a targeted advertisement to a consumer. (See the Gardenswartz patent, Abstract). A customer is provided with a customer identification (CID), which allows a store to record purchase data for the customer when the CID is presented at checkout. (Id. at col. 5, lines 44-64). Each customer is assigned a purchase behavior classification based on the customer's offline purchase history (e.g., not through merchant websites). (Id. at col. 10, lines 17-23). Targeted advertisements, based on the purchase behavior classification, are transmitted to a personal computer used by the customer. (Id. at col. 10, lines 23-28). One type of targeted advertisement described by the Gardenswartz patent is a value contract. (Id. at col. 14, lines 50-51). According to the value contract, "the consumer is offered a reward for complying with a particular behavioral pattern such as a predefined change in behavior or the continuance of an established behavior." (Id. at col. 14, lines 51-55). For example, "in order for a consumer to fulfill a value contract and receive a reward, the consumer may be required to purchase a preselected amount of a specified product within a predetermined

amount of time." (Id. at col. 15, lines 8-12). Thus, the customer only enters into the value contract if he/she performs according to its term.

Claim 30 recites a method comprising the steps of "presenting an offer to the consumer on an offer display device, the offer based on information from the first transaction" and "*receiving an indication of acceptance of the offer from the consumer at the first merchant location*" in conjunction with "associating the indication of acceptance with the unique identification of the consumer" and "identifying the consumer using a further data capture device at a second merchant location where the consumer presents the instrument during the processing of a second transaction" in combination with "*retrieving the offer based on the identification of the consumer at the second merchant location, wherein the offer is applied to the second transaction.*"

The Gardenswartz patent does not disclose or suggest "receiving an indication of acceptance of the offer from the consumer at the first merchant location," as recited in claim 30. The Examiner contends that the Gardenswartz patent shows this feature. (See 1/17/2006 Office Action, p. 3). However, the Applicant respectfully disagrees. The Gardenswartz patent describes the use of reward-based value contracts as incentives that influence a consumer's behavior. In order to accept the reward, the consumer may have to visit a specified retail location. (Id. at col. 16, lines 39-42). Although redeeming the reward at the specified retail location does constitute an acceptance of the reward, this is clearly not the same as the offer acceptance recited in claim 30. As recited in claim 30, an indication of the acceptance is received "at the first merchant location" and the offer is retrieved, then "applied to the second transaction" at the second merchant location. In contrast, the acceptance of the reward and the redeeming of the reward occur at the same time and location (i.e., during a transaction at the specified retail location). Thus, the system described by the Gardenswartz patent does not allow the consumer to accept an offer prior to engaging in a second transaction in which the offer is applied. Therefore, the Gardenswartz patent neither discloses nor suggests "receiving an indication of acceptance of the offer from the consumer at the first merchant location" and

"retrieving the offer based on the identification of the consumer at the second merchant location, wherein the offer is applied to the second transaction," as recited in claim 30.

It is respectfully submitted that claim 30 is not anticipated by the Gardenswartz patent for the reasons discussed above and that this rejection should be withdrawn. Because claims 31-36 depend from and, therefore, include all of the limitations of claim 30, it is respectfully submitted that these claims are also allowable.

Claim 37 recites a system which comprising "*an offer display device which receives the one of the offers from the data farm, displays the one of the offers to the consumer at the merchant location, receives an indication of acceptance of the one of the offers from the consumer and forwards the indication of acceptance to the data farm device, wherein the data farm device stores the indication of acceptance in the unique identification record of the consumer in preparation for applying the offer to a second transaction.*" As discussed above, the Gardenswartz patent describes displaying the offer to the consumer through a personal computer and having the consumer visit a specified location to redeem the reward. The displaying and redeeming are performed at separate times and locations. Therefore, the personal computer does not display an offer, receive an indication of acceptance of the offer, and forward the indication "in order to apply the offer to a second transaction." Thus, it is respectfully submitted that the Gardenswartz patent neither discloses nor suggests "an offer display device which receives the one of the offers from the data farm, displays the one of the offers to the consumer at the merchant location, receives an indication of acceptance of the one of the offers from the consumer and forwards the indication of acceptance to the data farm device, wherein the data farm device stores the indication of acceptance in the unique identification record of the consumer in preparation for applying the offer to a second transaction," as recited in claim 37.

Therefore, for the reasons stated above, Applicant respectfully submits that claim 37 is allowable and the rejection of this claim should be withdrawn. Because claims 38-45 depend from and, therefore, include all of the limitations of claim 37, it is respectfully submitted that

these claims are also allowable.

Claim 46 recites a method comprising substantially the same limitations as claim 30, including "retrieving an offer based on the transaction data; sending the offer to an offer display device at the merchant location; receiving an indication of acceptance of the offer from the consumer at the merchant location; and associating the indication of acceptance with the unique consumer identification record in preparation for applying the offer to a second transaction." Therefore, for the same reasons stated above, Applicant respectfully submits that claim 46 is allowable and the rejection of this claim should be withdrawn. Because claims 47-49 depend from and, therefore, include all of the limitations of claim 46, it is respectfully submitted that these claims are also allowable.

CONCLUSION

In light of the foregoing, Applicant respectfully submits that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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By: _____

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